

CHAPTER 1

FINANCIAL INSTITUTIONS

Article 7

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ARTICLE 7

BUILDING AND LOAN ASSOCIATIONS AND SAVINGS AND LOAN ASSOCIATIONS

7-1-770. Definitions.

(a) As used in this article, the term:

(1) "Building and loan association" means a local mutual association existing under the laws of this state on April 1, 1975, or organized under this article without capital stock which:

(A) Is authorized to receive deposits but shall not have the power to offer third-party payment services except in the same manner and subject to the same provisions as are set forth in Code [Section 7-1-670](#) for credit unions;

(B) Receives the greater portion of its funds from such deposits; and

(C) Lends the greater portion of its funds on the security of first liens or security titles on homes and on the security of first liens on its own deposits.

(2) "Deposit" means any arrangement whereby a withdrawable interest is created in a building and loan association or whereby the building and loan association becomes indebted to a person transferring to it money, commercial paper, or similar items for the payment of money, whether called a "share," "account," "certificate," "share account," "savings account," "deposit," "savings deposit," "deposit account," or otherwise.

(b) An association is "local" within the meaning of this article if the greater portion of its investment in real estate loans is limited to loans on the security of a first lien or security title on real estate. Any such association may purchase real estate loans or interests in real estate loans which are made and owned by other associations qualified under the building and loan statutes of their respective states or from any savings and loan association to the extent authorized by the regulations of the department, provided that such regulations shall not permit the purchase of loans or interests in loans of any type or in any amounts (per individual loan or in the aggregate) which are not permitted by law to be purchased by savings and loan associations with principal offices in this state.

(c) An association is "mutual" if all depositors in such association participate in the income of such association and if all borrowers are privileged to vote at least one vote at any meeting of members, it being unnecessary that any borrower should subscribe to or purchase any shares or be entitled to participate in any way in the income of such association.

(Ga. L. 1937-38, Ex. Sess., p. 307, 2; Ga. L. 1945, p. 263, 2; Ga. L. 1965, p. 473, 1; Code 1933, 41A-3501, enacted by Ga. L. 1974, p. 705, 1; Ga. L. 1981, p. 1366, 16; Ga. L. 1982, p. 3, 7.)

7-1-771. Members of building and loan association; voting.

All depositors of the building and loan association and all borrowers from it, all persons assuming or obligated upon loans made or held by it, and all persons buying the property securing loans made by such association subject to such loans shall be members of such association. At all meetings of the members of such association each borrower and each obligor upon a loan and each owner of property subject to a loan shall be entitled to one vote as such borrower, obligor, or owner. Depositors, whether borrowers or not, shall be entitled to vote as otherwise provided by law or the regulations of the department.

(Ga. L. 1945, p. 263, 1; Code 1933, 41A-3502, enacted by Ga. L. 1974, p. 705, 1.)

7-1-772. Presentation, contents, and execution of articles of building and loan association.

(a) Five or more persons competent to contract, a majority of whom shall be residents of this state, who may desire to create a building and loan association under this article shall present articles as described in this Code section to the Secretary of State. The articles shall contain:

- (1) The name of the building and loan association;
- (2) A recitation that it is being organized under this article;
- (3) The county of its location;
- (4) The location where its initial registered offices will be located;
- (5) The period of its duration, which shall be perpetual unless otherwise limited;
- (6) The number of directors constituting the initial board of directors and the name and address of each person who is to serve as a member thereof;
- (7) The name and address of each incorporator; and
- (8) Any provision which the incorporators may choose to insert for the regulation of the business and affairs of the association.

(b) The articles shall be in writing, subscribed by the incorporators, and acknowledged by each of them before an officer authorized to take acknowledgments. The articles shall be filed and processed in accordance with subsection (c) of Code [Section 7-1-392](#).

(Code 1933, 41A-3503, enacted by Ga. L. 1974, p. 705, 1.)

7-1-773. Approval or disapproval of articles of building and loan association by department.

Reserved. Repealed by Ga. L. 1989, p. 1257, 27, effective July 1, 1989.

7-1-774. Approval of articles of building and loan association; renewals or amendments to existing charters.

Reserved. Repealed by Ga. L. 1989, p. 1257, 28, effective July 1, 1989.

7-1-775. Filing and processing articles of incorporation and amendments for building and loan association.

Articles of incorporation for a building and loan association shall be filed and processed in accordance with the provisions contained in Part 8 of Article 2 of this chapter. Articles of amendment to articles of incorporation for a building and loan association shall be filed and processed in accordance with the provisions contained in Part 13 of Article 2 of this chapter.

(Code 1933, 41A-3506, enacted by Ga. L. 1974, p. 705, 1; Ga. L. 1975, p. 445, 41; Ga. L. 1989, p. 1257, 29.)

7-1-776. Certificate of incorporation or amendment issued by Secretary of State.

Upon compliance with Code [Section 7-1-395](#) or [7-1-516](#), the Secretary of State shall issue to the incorporators or the building and loan association a certificate of incorporation or amendment, as the case may be.

(Code 1933, 41A-3507, enacted by Ga. L. 1974, p. 705, 1; Ga. L. 1989, p. 1257, 30.)

7-1-777. Principal and branch offices.

No building and loan association or savings and loan association or similar corporation existing under the laws of this state or of the United States shall accept deposits in this state except on the premises of an established principal office or branch office operated pursuant to this article. For the purposes of this Code section, the term "branch office" shall be construed to mean any office of such association or corporation which is intended to be permanently established in a fixed location and to be operated at such location on substantially a full-time basis.

(Ga. L. 1973, p. 653, 1; Code 1933, 41A-3508, enacted by Ga. L. 1974, p. 705, 1.)

7-1-778. Rules and regulations governing building and loan associations.

Without limitation on the authority conferred by Article 1 of this chapter, the department may adopt reasonable rules and regulations governing the operation of building and loan associations, provided the same are not in conflict with any of the provisions of this article. Such rules and regulations shall provide for reasonable bonds for all officers and employees of building and loan associations handling moneys and reasonable limitations on the type of real estate on which funds may be loaned and the percentage of value to be loaned; and the department shall have power to adopt other reasonable rules and regulations to protect all funds deposited by the public in the building and loan associations.

(Ga. L. 1937-38, Ex. Sess., p. 307, 8; Code 1933, 41A-3509, enacted by Ga. L. 1974, p. 705, 1.)

7-1-779. Use of "savings and loan," "building and loan," or other terms likely to mislead public as to nature of business.

No person or corporation, except a building and loan association or a savings and loan association actually engaged in carrying on a building and loan or savings and loan business as contemplated by this article or the laws of the United States, shall transact business under any name or title which contains the terms "savings and loan" or "building and loan" or combination of the words used in said phrases or use any sign or any letterhead or billhead, circular, or paper of any kind or advertise in any manner which indicates that his or its business is the character or kind of business carried on or transacted by a building and loan or savings and loan association or which is likely to lead the public to believe that his or its business is that of a building and loan or savings and loan association.

(Ga. L. 1937-38, Ex. Sess., p. 307, 10; Code 1933, 41A-3510, enacted by Ga. L. 1974, p. 705, 1.)

7-1-780. Lien on deposits to secure loans.

To secure loans, building and loan associations and savings and loan associations shall have a lien without further agreement or pledge upon all deposits with it by a borrower; and, upon default upon any loan, any such association may, without notice to or consent of the borrower, cancel on its books part or all of the amount outstanding to the credit of the borrower not exceeding his obligations to the association and apply such amount in payment of the obligations.

(Ga. L. 1937-38, Ex. Sess., p. 307, 11; Code 1933, 41A-3511, enacted by Ga. L. 1974, p. 705, 1.)

7-1-781. Conversion into savings and loan association.

Any building and loan association or other financial institution existing under the laws of this state doing a home financing business may convert itself into a savings and loan association in accordance with Section 5 of the Home Owners' Loan Act of 1933, 12 U.S.C. Section 1464, upon a vote of 51 percent or more of the votes of the members cast at an annual meeting or at any special meeting called to consider such action.

(Ga. L. 1937-38, Ex. Sess., p. 307, 12; Code 1933, 41A-3512, enacted by Ga. L. 1974, p. 705, 1.)

7-1-782. Effect of conversion into savings and loan association.

Upon the conversion of any building and loan association into a savings and loan association, the corporate existence of such association shall not terminate, but such savings and loan association shall be deemed to be a continuation of the entity of the building and loan association so converted. All property of the converted building and loan association, including its rights, titles, and interests in and to all property of whatsoever kind, whether real, personal, or mixed, and choses in action and every right, privilege, interest, and assets of any conceivable value or benefit then existing or pertaining to it or which inure to it, shall immediately, by act of law and without any conveyance or transfer and without any further act or deed, remain and be vested in and continue to be the property of such savings and loan association into which the building and loan association has converted itself; and such savings and loan association shall have, hold, and enjoy the same in its own right as fully and to the same extent as the same was possessed, held, and enjoyed by the converting building and loan association. Such savings and loan association, as of the time of the taking effect of such conversion, shall continue to have and succeed to all of the rights, obligations, and relations of the converting building and loan association. All pending actions and other judicial proceedings to which the converting building and loan association is a party shall not be deemed to have abated or to have discontinued by reason of such conversion but may be prosecuted to final judgment, order, or decree in the same manner as if such conversion had not been made; and such savings and loan association resulting from such conversion may continue such action in its corporation name; and any judgment, order, or decree may be rendered for or against the converting building and loan association theretofore involved in such judicial proceedings.

(Ga. L. 1937-38, Ex. Sess., p. 307, 12; Code 1933, 41A-3513, enacted by Ga. L. 1974, p. 705, 1.)

7-1-783. Previous conversions into savings and loan associations ratified.

Any building and loan association or corporation which has converted itself prior to April 1, 1975, into a savings and loan association under the Home Owners' Loan Act of 1933 and has received a charter from the Federal Home Loan Bank Board shall be recognized as a savings and loan association, and its federal charter shall be given full credence by the courts of this state to the same extent as if such conversion had taken place under this article.

(Ga. L. 1937-38, Ex. Sess., p. 307, 12; Code 1933, 41A-3514, enacted by Ga. L. 1974, p. 705, 1.)

7-1-784. Conversion into building and loan association.

Any savings and loan association may convert itself into a building and loan association under this article upon a vote of 51 percent or more of the votes of members of such savings and loan association cast at any annual meeting or at any special meeting called to consider such action.

(Ga. L. 1937-38, Ex. Sess., p. 307, 12; Code 1933, 41A-3515, enacted by Ga. L. 1974, p. 705, 1.)

7-1-785. Effect of conversion into building and loan association.

All of the provisions regarding property and other rights contained in Code [Section 7-1-782](#) shall apply, in reverse order, to the conversion of a savings and loan association into a building and loan association operating under this article so that the building and loan association shall be a continuation of the corporate entity of the converting savings and loan association and continue to have all of its property and rights.

(Ga. L. 1937-38, Ex. Sess., p. 307, 12; Code 1933, 41A-3516, enacted by Ga. L. 1974, p. 705, 1.)

7-1-786. Taxation.

No building and loan association or savings and loan association with a home office in this state shall be assessed or subjected to taxation by the state or any county, municipality, or other political subdivision taxing authority on its franchise, capital, reserves, surplus, loans, shares, or accounts; except that any real property and any tangible personal property not hereinbefore specifically mentioned, which may be owned by it, shall be subject to taxation to the same extent, according to its value, as all other real and tangible personal property is taxed.

(Ga. L. 1937-38, Ex. Sess., p. 307, 13; Code 1933, 41A-3517, enacted by Ga. L. 1974, p. 705, 1.)

7-1-787. Exemption from securities regulations.

The opening and transfer of deposits in a building and loan association or savings and loan association are exempted from all provisions of law of this state which provide for the supervision and the regulation of the sale of securities, even if the word "shares" or similar terminology is used in connection therewith; and the sale of any such deposits shall be legal without any action or approval whatsoever on the part of any official authorized to license, regulate, and supervise the sale of securities.

(Ga. L. 1937-38, Ex. Sess., p. 307, 14; Code 1933, 41A-3518, enacted by Ga. L. 1974, p. 705, 1.)

7-1-788. Notaries and other officers not disqualified by interest in association; validation of prior instruments.

No notary public or other public officer shall be disqualified from taking the acknowledgment of or witnessing any instrument, in writing, in which a building and loan association or a savings and loan association is interested, by reason of his holding an office in or being a member of or being pecuniarily interested in or employed by such association so interested; and any such acknowledgments or attestations taken prior to April 1, 1975, are validated.

(Ga. L. 1937-38, Ex. Sess., p. 307, 15; Code 1933, 41A-3519, enacted by Ga. L. 1974, p. 705, 1.)

7-1-789. Minors' deposits, safe-deposit boxes, and third-party payment accounts; validity of releases.

(a) A minor shall be allowed to have deposits in a building and loan association or savings and loan association in his own name, and the deposits made by the minor shall not be subject to the control of his parent, guardian, or trustee. A minor may have third-party payment accounts. A receipt or acquittance signed by such a minor depositor shall be a valid and sufficient release and discharge of such association for any payment of any deposit to such minor. In the transactions involving payments to third parties out of the minor's account, the payment of an order of the minor shall be a valid and sufficient release and discharge of the savings and loan association for any payment of such funds from the minor's account.

(b) Subsection (a) of this Code section shall continue to include, without limitation:

(1) Deposits in such associations by a minor with one or more adults or other minors, as party to and with the same effect as a multiple-party account under Article 8 of this chapter;

(2) The rental to a minor by said associations of a safe-deposit box or other receptacle for the safe deposit of property from such minor (and the receipt of any such property), individually or jointly with one or more adults; and

(3) The dealing with a minor by said associations with respect to such a deposit account, third-party payment account, or safe-deposit agreement without the consent of a parent or guardian and with the same effect as though the minor were an adult.

Any action of the minor with respect to such deposit account, third-party payment account, or safe-deposit agreement shall be binding on the minor with the same effect as though the minor were an adult.

(Ga. L. 1937-38, Ex. Sess., p. 307, 16; Code 1933, 41A-3520, enacted by Ga. L. 1974, p. 705, 1; Ga. L. 1981, p. 1366, 17; Ga. L. 1982, p. 1085, 1, 2.)

7-1-790. Deposits of fiduciaries.

A building and loan association or a savings and loan association may receive deposits in the name of an administrator, executor, guardian, trustee, or other fiduciary in trust for a named or an unnamed beneficiary or beneficiaries. Such a deposit and dividends or interest thereon or other rights relating thereto may be paid or delivered, in whole or in part, to such fiduciary or may be exercised by such fiduciary without regard to any notice to the contrary so long as such fiduciary is living and until the association has received notice of the death of such fiduciary. The payment or delivery to any such fiduciary or a receipt or acquittance signed by any such fiduciary, to whom any such payment or any such delivery of rights is made, shall be a valid and sufficient release and discharge of such association for the payment or delivery so made.

(Ga. L. 1937-38, Ex. Sess., p. 307, 16; Code 1933, 41A-3522, enacted by Ga. L. 1974, p. 705, 1.)

7-1-791. Payment on death of depositor.

Except as provided in Article 8 of this chapter, upon the death of a depositor of a building and loan association or a savings and loan association, such association may pay the amount of his deposit or any portion thereof to an executor, administrator, or other fiduciary duly appointed and qualified pursuant to the last will and testament of the depositor or by any court of competent jurisdiction in this state or any other state.

(Ga. L. 1937-38, Ex. Sess., p. 307, 16; Ga. L. 1958, p. 620, 1; Code 1933, 41A-3523, enacted by Ga. L. 1974, p. 705, 1; Ga. L. 1975, p. 445, 43; Ga. L. 1976, p. 1388, 6; Ga. L. 1983, p. 661, 2.)

7-1-792. Deposits applied to funeral expenses.

Except as provided in Article 8 of this chapter, if no application for the deposit is made by any person named in Code [Section 7-1-791](#) within 90 days from the death of a depositor, a building and loan association or a savings and loan association shall be authorized to apply not more than \$1,000.00 of the deposit of such deceased depositor in payment of the funeral expenses of such deceased depositor upon receipt of an itemized statement of such expenses and the affidavit of the undertaker conducting the funeral that said statement was true and correct and had not been paid.

(Ga. L. 1937-38, Ex. Sess., p. 307, 16; Code 1933, 41A-3524, enacted by Ga. L. 1974, p. 705, 1; Ga. L. 1976, p. 1388, 7.)

7-1-793. Investment of funds in insured deposits.

Administrators, executors, guardians, trustees, and other fiduciaries of every kind and nature; insurance companies; charitable, educational, eleemosynary, and public corporations and organizations; municipalities and other public corporations and bodies; and public officials are authorized to invest funds held by them, without any order of any court, in deposits in building and loan associations or savings and loan associations which are insured under a federal deposit insurance program; and, to the extent of such insurance, such investments shall be deemed and held to be legal investments for such funds.

(Ga. L. 1937-38, Ex. Sess., p. 322, 1; Ga. L. 1951, p. 756, 1; Ga. L. 1952, p. 305, 2; Ga. L. 1964, p. 194, 1; Code 1933, 41A-3525, enacted by Ga. L. 1974, p. 705, 1; Ga. L. 1980, p. 972, 8; Ga. L. 1993, p. 917, 7.)

7-1-794. Deposits as security or in lieu of bond.

Whenever, under the laws of this state or otherwise, a deposit of securities is required for any purpose, the deposits made legal investments by Code [Section 7-1-793](#) shall be acceptable as such security; and, whenever, under the law of this state or otherwise, a bond is required with security, such bond may be furnished and the deposits made legal investments by Code [Section 7-1-793](#) in the amount of such bond shall be acceptable to secure said bond without other

security. This Code section and Code [Section 7-1-793](#) are supplemental to any and all other laws relating to and declaring what shall be legal investments for the persons, corporations, organizations, and officials referred to in these Code sections and the laws relating to the deposit of securities and the making and filing of bonds for any purpose.

(Ga. L. 1937-38, Ex. Sess., p. 322, 2; Ga. L. 1952, p. 305, 3; Ga. L. 1964, p. 194, 2; Code 1933, 41A-3526, enacted by Ga. L. 1974, p. 705, 1.)

7-1-795. Savings account books and certificates.

The original record of deposits in building and loan associations and savings and loan associations is the record on the books of the association, and the depositor shall be entitled to a savings account book or certificate which is a duplicate of such record. Those dealing with such savings account books and certificates shall be bound by the record on the books of the association. In the event of the loss or destruction of any such savings account book or certificate, any association may, upon receipt of an affidavit of such loss or destruction, issue a duplicate thereof and remain liable only to the holder or holders as shown on the records of the association. The only way an effective transfer or pledge may be accomplished so as to affect the rights of the association is by transfer on the books of the association in the case of transfer or written notice of a pledge entered on the books of the association and acknowledged in writing in the case of a pledge; and the association shall be protected in paying any part of a deposit to the holder thereof as shown on the books of the association unless it has received written notice of a pledge or transfer thereof.

(Code 1933, 16-439, enacted by Ga. L. 1952, p. 305, 4; Code 1933, 41A-3527, enacted by Ga. L. 1974, p. 705, 1.)

7-1-796. Insanity, incompetency, bankruptcy, or death of depositor.

A building and loan association or a savings and loan association paying deposits to an insane or otherwise incompetent depositor or bankrupt depositor or acting upon the release and discharge or authorization of such depositor or acting upon the power of attorney of an insane, deceased, or bankrupt depositor in good faith and without actual knowledge of the insanity or other incompetency, bankruptcy, or death of such depositor shall be protected in so doing and may lawfully charge such payment to the depositor's account.

(Code 1933, 16-440, enacted by Ga. L. 1956, p. 628, 1; Code 1933, 41A-3528, enacted by Ga. L. 1974, p. 705, 1.)

7-1-797. Building and loan association deposit insurance requirements; public notices when deposits not properly insured.

(a) Every building and loan association shall be required to obtain deposit insurance satisfactory to the department before it may conduct business and accept deposits, except that building and loan associations which have had their deposit insurance coverage withdrawn or canceled may, in the discretion of the department, continue to accept deposits, provided that, within six months after withdrawal or cancellation of insurance, such associations shall obtain

deposit insurance written by an insurance company authorized to transact business in this state and acceptable to the department or by the Federal Deposit Insurance Corporation. The department may, in its discretion, for cause shown, extend the time limitation in which deposit insurance must be obtained.

(b) Deposit insurance required to be obtained in subsection (a) of this Code section need not be in excess of amounts insured by the Federal Deposit Insurance Corporation at the time the insurance is obtained; but, wherever the insurance coverage is, in the opinion of the department, less than amounts insured by the Federal Deposit Insurance Corporation, the building and loan association shall be required to post a sign in boldface print, in letters at least four inches high, at a conspicuous place near the entrance of such association, which states "Deposits Not Insured" or "Deposits Insured Up To (insert amount of deposit insurance)." Such wording shall also follow the name of the building and loan association wherever it is written or printed and shall be posted in writing which is easily legible in letters at least one inch high at each window or desk receiving deposits.

(Code 1933, 41A-3529, enacted by Ga. L. 1974, p. 705, 1; Ga. L. 1980, p. 972, 9; Ga. L. 1993, p. 917, 8.)